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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Jacksonville 03-163]

USCG-2004-16938-10

RIN 1625-AA00

Safety Zone; St. Johns River, Jacksonville, Florida

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the St. Johns River extending 210 feet East and West of the Main Street Bridge in position 30° 19.39'N, 081°39.53'W and the Acosta Bridge in position 30°19.32'N, 081°39.84'W, Jacksonville, Florida. The safety zone is established for the Lighted Boat Parade fireworks display scheduled on November 29, 2003, on the St Johns River, Downtown Jacksonville. This rule is needed to protect participants, vendors, and spectators from the hazards associated with the launching of fireworks off the aforementioned bridges and cascading onto the St Johns River.

DATES: This rule is effective from 7:00 p.m. on November 29, 2003, until 9:00 p.m. on November 29, 2003.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket [COTP Jacksonville 03-163] and are available for inspection and copying at Coast Guard Marine Safety Office Jacksonville, 7820 Arlington Expressway,

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Suite 400, Jacksonville, Florida, 32211, between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Brian G. Knapp at Coast Guard Marine Safety Office Jacksonville, Florida, tel: (904) 232-2957, ext. 108.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553 (b)(B), the Coast Guard finds that good cause exists for not publishing a NRPM. Publishing a NPRM, which would incorporate a comment period before a final rule could be issued, and delaying the rule's effective date is contrary to public safety because immediate action is necessary to protect the public and waters of the United States. Moreover, a NPRM is unnecessary due to the limited amount of time this rule will be in effect.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. The Coast Guard will issue a broadcast notice to mariners and may place Coast Guard vessels in the vicinity of this zone to advise mariners of the restriction.

Background and Purpose

This rule is needed to protect spectator craft in the vicinity of the fireworks presentation from the hazards associated with transport, storage, and launching of fireworks. Anchoring, mooring, or transiting within these zones is prohibited, unless authorized by the Captain of the Port, Jacksonville, Florida. The temporary safety zone encompasses all waters within 210 feet East and West off the Main Street Bridge and the

Acosta Bridge. During the fireworks show, the fireworks will be launched from the Main Street Bridge in position 30°19.399'N, 081°39.533'W and the Acosta Bridge in position 30°19.326'N, 081°39.849'W.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential cost and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has exempted it from review under the order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) because these regulations will only be in effect for a short period of time, and the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. "Small entities" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominate in their field, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under section 5 U.S.C. 605 (b) that this rule will not have a significant economic impact upon a substantial number of small entities because the regulations will only be in effect for two hours and the impact on routine navigation are expected to be minimal because traffic may transit safely around the zone and traffic may enter upon permission of the Captain of the Port or his representative.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under FOR FURTHER INFORMATION CONTACT for assistance in understanding this rule.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Ombudsman for each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531 - 1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Although this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or safety that may disproportionately affect children.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969

(NEPA)(42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. Under figure 2-1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" and a "Categorical Exclusion Determination" are not required for this rule.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

LIST OF SUBJECTS IN 33 CFR PART 165:

Harbors, Marine safety, Navigation (water), Reporting and record keeping

requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR 165, as follows:

PART 165 – REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

AUTHORITY: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. A new temporary § 165.T-07-163 is added to read as follows:


§ 165.T-07-163 Safety Zone St Johns River, Jacksonville, Florida.

(a) Regulated area. The Coast Guard is establishing a temporary safety zone on the St. Johns River extending 210 feet East and West of the Main Street Bridge in position 30° 19.39'N, 081°39.53'W and the Acosta Bridge in position 30°19.32'N, 081°39.84'W, Jacksonville, Florida. The safety zone is established for the Lighted Boat Parade fireworks scheduled on November 29, 2003, on the St Johns River, Downtown Jacksonville, Florida.

(b) Regulations. In accordance with the general regulations in § 165.23 of this part, anchoring, mooring or transiting in this zone is prohibited unless authorized by the Coast Guard Captain of the Port Jacksonville, Florida.

(c) Dates. This rule is effective from 7:00 p.m., November 29, 2003, until 9:00 p.m. on November 29, 2003.

Dated: NOV 21 2003



DAVID L. LERSCH
Captain, U. S. Coast Guard
Captain of the Port Jacksonville